

TOWN OF SUMMIT
LOCAL LAW NO. 1-2013

Section I. TOWN OF SUMMIT LAND USE LAW

This Local Law shall be known and may be cited as the Town of Summit Land Use Law.

Section II. PURPOSE

This Local Law is enacted pursuant to the Municipal Home Rule Law of the State of New York, Articles 2 and 3 and Town Law, Article 16 and in conformance with the Comprehensive Plan for the Town of Summit to promote the health, safety, and general welfare of the inhabitants of the Town of Summit by the proper regulation of all building construction and alteration of existing structures in the Town of Summit. This Local Law provides for the administration and enforcement of the existing New York State Uniform Fire Prevention and Building Code and all subsequently adopted New York State Fire and Building Codes which supersede the existing code.

Section III. SCOPE

- A. This Local Law shall be enforced in conjunction with the Town of Summit Local Law #2-1985 for the administration and enforcement of the existing New York State Uniform Fire Prevention and Building Code and all subsequently adopted New York State Fire and Building Codes which supersede the existing code. This Local Law supersedes Local Law No. 1-2002 and builds upon the history and success of the Town of Summit Home Site Local Law.
- B. No principal structure or qualifying addition to a principal structure hereafter erected or undergoing alteration of use shall be used or occupied until the Inspector shall have issued a Certificate of Occupancy or a Certificate of Compliance.
- C. No building permit, unless otherwise required by New York State Law, shall be required (as determined by the Code Enforcement Officer) for:
1. Necessary repairs which do not materially change structural features;
 2. Alterations to existing buildings; provided they meet all of the following:
 - a. Do not materially change structural features;
 - b. Do not change fire safety features such as smoke detectors, sprinklers, required fire separations and exits;
 - c. Do not involve the installation or extension of electrical systems; and

d. Do not include the installation of heating appliances or associated chimneys or flues.

3. Residential storage sheds and other noncommercial structures one hundred forty-four (144) square feet or less which are not intended for use by one or more persons as quarters for living, sleeping, eating or cooking; and

4. Nonresidential farm buildings including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes.

Section IV. APPLICATION FOR BUILDING PERMITS

A. An application for a building permit shall be obtained from the Town Clerk and the permit shall be subject to a fee schedule determined by the Summit Town Board. The fee schedule may be obtained from the Town Clerk. The Summit Town Board will review the fee schedule annually.

B. Any construction requiring a building permit which is started prior to obtaining a building permit shall be subject to a stop work order.

Section V. INSPECTION

A. The applicant will, after compliance with the provisions of this Local Law and any other town laws, complete the statement of compliance found in part of the Town Building Permit application and submit the same to the Inspector.

B. The Inspector will, within ten (10) days after receipt of the statement of compliance, inspect the premises for compliance.

C. If the structure is in compliance with the provisions of this Local Law, the existing New York State Uniform Fire Prevention and Building Code and all subsequently adopted New York State Fire and Building Codes which supersede the existing code, the Inspector will issue a Certificate of Compliance or Certificate of Occupancy for the structure.

Section VI. BUILDING SITE REQUIREMENTS

A. No principal structure and/or non-principal structure shall be constructed or placed upon a site having an area less than 217,800 square feet (five acres) and having less than 200 feet frontage on a public highway or street or a private road that meets the highway specifications as adopted by the Town of Summit. This restriction shall not apply to sites which were recorded in the Schoharie County Clerk's Office prior to October 10, 1988.

B. No principal structure and/or non-principal structure or additions thereto shall be located closer than sixty (60) feet from the center of any public street or highway, or any private

road that meets the highway specifications as adopted by the Town of Summit, nor closer to any property boundary lines than twenty-five (25) feet measured horizontally.

C. Only one (1) principal structure shall be constructed or placed on one (1) site, except during a period of construction. The Certificate of Occupancy shall not be issued until the site has only one principal structure.

D. All lands used for principal structures shall have an adequate, well-drained entrance in accordance with regulations of the applicable highway department.

E. An on-site supply of potable drinking water, as specified by the New York State Department of Health, shall be provided for all principal structures.

F. No building permit shall be issued for a principal structure without a sewage disposal system plan, which has been approved by the Schoharie County Department of Health, nor shall a Certificate of Occupancy or Certificate of Compliance be issued until such system has been installed.

G. All manufactured homes, whether new, relocated or used, shall be HUD approved with a seal attached to the unit or be New York State Certified.

H. A principal structure shall be supported on a masonry support system or concrete slab. All manufactured homes shall be tied down in accordance with New York State laws.

I. Within one (1) year from the time the principal structure is situated on its required support, any open space between the underside of the structure and the ground or concrete slab shall be completely enclosed by skirting, well constructed.

Section VII. APPLICABILITY TO EXISTING STRUCTURES

A. A principal structure which is lawfully in existence prior to the enactment of this Local Law may continue to be used provided it meets the requirements of Section VI (E) and Section VI (F) of this Local Law.

B. If an existing principal structure is destroyed by fire, explosion, Act of God, or any other means, a building permit shall be obtained for reconstruction. If reconstruction is to occur on the original foot print, a permit shall be granted and no variance is necessary regardless of site size or setback distances. If reconstruction is not to occur on the original foot print, it is subject to all of the building site requirements of this Local Law.

C. Any qualifying addition to existing structures or alteration of use shall require a permit and shall be in accordance with this Local Law.

Section VIII. CHANGE OF OWNERSHIP OR UNCOMPLETED STRUCTURES

If an uncompleted structure changes ownership before final approval by the Inspector, the new owner must obtain a new building permit and complete the structure in compliance with this Local Law.

Section IX. TEMPORARY STRUCTURES

A. Temporary structures may not be inhabited more than four (4) months in a year.

B. All occupied temporary structures, recreational vehicles or trailers, regardless of the area on which they are located in accordance with this Law, must be connected to any existing sanitary sewer system servicing the property or have a plan for proper disposal of waste filed with the Code Enforcement Officer.

Section X. PROHIBITED USES

A. No manufacturing use nor any trade, industry, use or purpose that is noxious or offensive by reason of the emission of odor, dust, smoke, toxic or noisome fumes, radiation, gas, noise, potential groundwater contamination, vibration or excessive light, high volume truck traffic, or any combination of the above which is dangerous and prejudicial to the public health, safety and general welfare, shall be permitted in the Town of Summit, and this includes more specifically but is not limited to the following such uses:

1. Stockyards, slaughterhouses and the commercial processing of meats for animal foods.
2. Junkyards, as defined in Section XVI.
3. The storage of crude oil or any of its volatile or asphaltic oils or other highly inflammable liquids in aboveground tanks with unit capacity greater than ten thousand (10,000) gallons. All tanks having a unit capacity greater than five hundred fifty (550) gallons shall be properly diked with a dike or dikes having a capacity of one and one-half (1 ½) times the capacity of the tanks or tank surrounded.
4. High volume hazardous material handling, as defined in Section XVI.
5. Heavy Industrial, as defined in Section XVI.
6. Any process of assembly, extraction, manufacture or treatment normally constituting a nuisance by reason of odor, dust, smoke, toxic or noisome fumes, radiation, gas, noise, potential groundwater contamination, vibration or excessive light, high volume truck traffic including but not limited to such things as: chemical manufacturing, natural gas extraction, petroleum extraction, large scale mining, oil refineries, natural gas processing plants, petroleum and coal processing, coal mining, steel manufacturing, foundries, forge shops and boiler works; the manufacture or

refining of asphaltic oils; the manufacture or processing of cork, fertilizer, linoleum, oilcloth and glue or gelatin; the tanning and storage of rawhides; the manufacture of paint, oil, turpentine, shellac, enamel or varnish; fat rendering; and fish smoking or curing; provided, however, the above shall not apply to exclude an industry, whether or not specifically mentioned, if such industry, after supplying satisfactory evidence to the Board of Appeals, is certified by that Board to be free of the nuisance characteristics typical of its kind, by reason of special design of structure or innovation in processes or other circumstances. Generic examples of uses not normally constituting a nuisance include: Agricultural activities (milk processing plants, dairy farms, crop farming, small meat processing facilities, wineries), woodworking and cabinet shops, service stations, NYS Licensed Farm Wineries, Distilleries and Breweries, warehouses, equipment repair and maintenance structures, office and communications buildings, parking lots, and water wells serving otherwise allowed uses of property.

B. Billboards, as defined in Section XVI.

C. Multifamily Dwellings, as defined in Section XVI.

Section XI. USES REQUIRING SITE PLAN REVIEW

Site Plan review for some uses may be required as directed by the Town of Summit Site Plan Review Regulations. Prohibited uses as detailed in Section X are never permitted to undergo Site Plan review unless a use variance is granted by the Board of Appeals in accordance with Section XIII.

Section XII. BOARD OF APPEALS

A. There is hereby created a Board of Appeals of three (3) members, to be appointed by the Town Board and a chair designated, subject to the approval of the Town Board. In the absence of a chair, a majority of the Board of Appeals may designate a member to serve as acting chair. No person who is a member of the Town Board or the Planning Board shall be eligible for membership on the Board of Appeals.

B. The members of the Board of Appeals shall be paid for service an amount to be determined annually by the Town Board. Members may be paid mileage and reasonable fees to attend pertinent training sessions as deemed appropriate by the Town Board and duly approved before attending the training.

C. Of the initial appointees to the Board of Appeals, one (1) shall serve until the first day of January following the date of appointment, one (1) until the first day of the second January thereafter, and one (1) until the first day of the third January thereafter. Their successors shall be appointed, upon the expiration of their respective terms, to serve three (3) years. The Town Board will have the power to remove any member of the Board of Appeals for cause and after public hearing. Cause includes, but is not limited to, missing more than four (4) meetings in any year or not attending any pertinent training sessions for a consecutive

period of more than two (2) years. Vacancies shall be filled for the unexpired term of the member whose place has become vacant.

D. Every member of the Board of Appeals shall annually attend four (4) hours or more of training related to work of the Board of Appeals. On January 1 of each year, the Chair of the Board of Appeals shall submit in writing to the Town Clerk the training/course name, date attended, and location held for each training/course attended by Board of Appeals members during the year. Failure of a member to attend required training may result in removal from the Board of Appeals.

E. All meetings of the Board of Appeals shall be held at the call of the Chair and at such other times as such Board may determine. Such Chair or, in his/her absence, the Acting Chair may administer oaths, and compel the attendance of witnesses. All meetings of such board shall be open to the public. Such Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board shall be filed in the office of the Town Clerk within five (5) business days and shall be a public record.

F. Such Board of Appeals shall hear and decide appeals from any review, any order, requirement, decision or determination made by an administrative official charged with the enforcement of this Law. Area variances may also be heard upon referral from the Code Enforcement Officer and from the Planning Board for site plan review. It shall also hear and decide all matters referred to it upon which it is required to pass under this Law. The concurring vote of a majority of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor or the applicant any matter upon which it is required to pass under this Law, or to effect any variation from this Law. Such appeal may be taken by any person aggrieved or by an officer, department board or bureau of the Town.

G. Such appeals to the Board of Appeals shall be taken within such time as shall be prescribed by Town Law Section 267-a, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

H. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Appeals, after the notice or appeal shall have been filed with him, that by reason of facts stated, in the certificate would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record upon application, on notice to the officer from whom the appeal is taken and on due cause shown.

I. The Board of Appeals shall fix a reasonable time, within sixty (60) days, for the hearing of appeals and give due notice thereof to the parties and decide the same within a reasonable time. Public notice of such hearing by publication in the official Town paper shall be provided at least five (5) days prior to the hearing. At the hearing any person may appear in person or by agent or attorney. The Board of Appeals may reverse or affirm wholly or partly or may modify the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken.

J. Upon any application to the Board of Appeals for a variance, the applicant for the variance must notify all property owners within a radius of three hundred (300) feet of the property for which the variance has been requested of the hearing to be held by the Board of Appeals. Such notice shall be sent by certified mail, return receipt requested, to all of said property owners as their names may appear on the Tax Roll of the Town of Summit. It shall be the duty of the applicant for the variance to ascertain the names of the properly owners and to effect service of the notice required hereunder. No variance may be granted, nor any hearing conducted on the request for the variance, unless and until the applicant shall submit satisfactory proof to the Board of Appeals that it has complied with the terms and provisions hereof.

K. Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department, board or bureau of the Town, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the legality. Such petition must be presented to the court within thirty (30) days after the filing of the decision in the office of the Town clerk.

L. The Board of Appeals may adopt forms and by-laws for the conduct of its meeting so long as such by-laws are consistent with this Law. Such forms and by-laws shall be filed with the Town Clerk and made available to the public.

M. County Planning Board review. Applications for variances shall be subject to referral to the County Planning Board pursuant to Section 239-m of the General Municipal Law, if located within five-hundred (500) feet of:

- (1) the Town boundaries; or
- (2) the boundaries of any existing or proposed County or State park or other recreation area; or
- (3) the right-of-way of any County or State highway, or
- (4) the right-of-way of any existing or proposed stream or drainage channel owned by the County or for which the County has established channel lines; or

- (5) the boundary of any existing or proposed County or State land on which a public building or institution is situated; or
- (6) the boundary of a farm operation in an Agricultural District.

The recommendation of the County Planning Commission must be received **before** a final decision is made on the application.

N. In any proceeding before the Board of Appeals or Planning Board, if it becomes necessary for the Town or its Boards to hire expert consultants In connection with surveying, engineering, architecture or other construction questions, in considering the application and the disposition to be made thereof, the applicant shall as a condition to such proceeding and upon written demand therefore by the Town or its Board, reimburse the Town for the reasonable fees and charges of any and all such consultants.

1. Reimbursement to the Town of such charges by the applicant shall be a condition precedent to the determination of the Town of such application as may be pending.

2. By making any such application, the applicant shall be deemed to have consented to the Town imposing such charges. Should the applicant fail to reimburse the Town therefore, such charges shall be certified by the Town Board in question or the Town Clerk to the Assessor, whose duty it is to assess and levy taxes for said Town, and such charges shall thereupon be and become a first and paramount lien upon the premises which is the subject of such application and shall be added to, recorded and collected in the same manner as the taxes next to be assessed and levied against such premises.

Section XIII. VARIANCES – USE AND AREA

A. All applications for variances shall be accompanied by three (3) copies of a plot plan, drawn to scale with accurate dimensions, showing the location of existing and proposed structures on the lot.

B. Any variance that is not exercised within one (1) year of the date it is issued shall lapse without further hearing by the Board of Appeals.

C. Use Variances. No use variance shall be granted without a showing by the applicant that applicable regulations and restrictions have caused unnecessary hardship. To prove unnecessary hardship the applicant shall demonstrate that for each and every permitted use under this law:

- (1) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (2) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the area or neighborhood;

- (3) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (4) The alleged hardship has not been self-created.

Failure to meet any one of the four requires denial of the use variance by the Board of Appeals.

The Board of Appeals, in granting use variances, shall grant the minimum variance that it deems necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The Board of Appeals, in granting use variances, shall impose such reasonable conditions and restrictions as are related to and incidental to the proposed use of the property. Such conditions shall be imposed for the purpose of minimizing any adverse impact the variance may have on the neighborhood or community.

D. Area Variances. In making its determination, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community. In making this determination the Board shall also consider:

- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- (3) Whether the requested area variance is substantial;
- (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and
- (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

The Board of Appeals, in granting area variances, shall grant the minimum variance that it deems necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The Board of Appeals, in granting area variances, shall impose such reasonable conditions and restrictions as are related to and incidental to the proposed use of the property. Such conditions shall be imposed for the purpose of minimizing any adverse impact the variance may have on the neighborhood or community.

Section XIV. ENFORCEMENT

The provisions of this Local Law shall be administered and enforced by the Inspector appointed by the Summit Town Board. The Inspector shall have the power to make

inspections of buildings and premises necessary to carry out his/her duties in the enforcement of this Local Law.

Section XV. PENALTIES FOR OFFENSES

A. Any person, firm, corporation or entity found to be violating any provisions of this Law shall be served with a written notice by the Code Enforcement Officer or his/her designee, stating the nature of the violation and providing for correction thereof. Such notice shall be served by one (1) of the following methods:

1. By personal service;
2. By certified mail, return receipt requested, addressed to his or their last known address as shown on the latest completed assessment roll of the Town of Summit; or
3. By posting of such notice in a conspicuous place upon the premises affected, and a copy thereof mailed, addressed to his or their last known address as shown on the latest completed assessment roll of the Town of Summit.

B. Any person, firm, Corporation or entity that shall violate any portion of this Law shall be guilty of a violation and, upon conviction thereof, shall be subject to:

Civil penalties

1. For a first violation, a civil penalty not exceeding \$350.00;
2. For a second violation, provided both the first and second violations occurred within a period of five (5) years, a civil penalty not less than \$350.00 nor more than \$700.00;
3. For a third or subsequent violation all of which occurred within a period of five (5) years, a civil penalty of not less than \$700.00 nor more than \$1,000.00;
4. Each week's continued violation shall constitute a separate additional violation, for which separate and additional civil penalties may be imposed and recovered;
5. No remedy provided for the enforcement is intended to be exclusive and the Town reserves the right to enforce this Law by an action for injunction.

C. The owner and/or any occupant and/or any tenant and/or general agent of a building, premises or part thereof where such a violation has been committed or does exist shall be guilty of such an offense.

D. Any person, firm, corporation or entity violating any of the provisions of this Law shall become liable to the Town for any expense or loss or damage occasioned the Town by reason of such violation.

E. The imposition of penalties herein prescribed shall not preclude the Town or any person from instituting appropriate legal action or proceedings to prevent a violation of this Law, or to restrain or enjoin the use or occupancy of a building, premises or part thereof in violation of this Law.

F. Any construction or alteration of structure upon which material progress has been made at the time of this enactment shall not be deemed in violation thereof.

Section XVI. DEFINITIONS

AGRICULTURE – Includes farming as defined by NYS or the US Department of Agriculture; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; NYS Licensed Farm Wineries, Distilleries and Breweries; maple syrup production; timber, logging, tree farms; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production.

ALTERATION OF USE - The change or conversion of a non-principal structure to a principal structure.

BILLBOARD - A sign or structure which directs attention to an idea, product, business, activity, service or entertainment which is conducted, sold, or offered elsewhere than upon the lot on which such sign is situated. Billboards can be no larger than 120 square feet per face. There can be up to two signs per face on the structure containing the signs so long as both are under 120 square feet in area. New signs cannot be located within 50 feet of an adjoining residential parcel if it can be seen from that parcel.

BOARD OF APPEALS -- An officially constituted body whose principal duties are to consider requests for interpretations or for variances from the strict application of this Law.

DRAINAGE - A system of swales, ditches and culverts, catch basins and piping to convey storm water runoff to retention areas and stabilized discharge points.

DWELLING, MULTIFAMILY - A dwelling arranged, intended or designed for occupancy by four (4) or more households living as families independently of each other and with separate and individual cooking facilities.

GRADING - The leveling of land for any purpose including construction of roads, building construction, drainage areas, and parking.

HAZARDOUS MATERIALS - For the purposes of this Law, the definition of hazardous material encompasses both *Hazardous Substances* and *Hazardous Wastes*, as defined in this standard, and includes, but is not limited to, the following:

1. Any hazardous substance or hazardous waste as listed in the following federal regulations:

- a. EPCRA Section 302 Extremely Hazardous Substances
- b. CERCLA Hazardous Substances
- c. EPCRA Section 313 Toxic Chemicals
- d. CAA 112(r) Regulated Chemicals For Accidental Release Prevention

Note: The lists referenced in 1.a. through 1.d. are part of the *Consolidated List of Chemicals Subject to Emergency Planning and Community Right-To-Know Act (EPCRA) and Section 112(r) of the Clean Air Act* {EPA Document 550-B-10-001 July 2011}.

2. Any hazardous substance or hazardous waste as listed in the following New York State regulations:

- a. DEC Regulations, Chapter 4, Part 371 - Identification and Listing Of Hazardous Wastes
- b. DEC Regulations, Chapter 5, Part 597 List of Hazardous Substances

3. Nuclear or radioactive materials or wastes

4. RCRA Hazardous Wastes

5. Substances listed by the U.S. Department of Transportation as hazardous materials under 49 CFR 172.101 and appendices, with the following exceptions:

- a. Materials typically associated with residential or individual use, such as those which are readily available in any grocery or hardware store, including, but not limited to, batteries, safety matches, painting supplies, fertilizers and garden supplies, ammunition and reloading supplies, and/or commercially available cleaning solutions.
- b. Materials typically associated with general construction use including, but not limited to, paints, paint thinners, roofing compounds, building supplies, and/or commercially available cleaning solutions.
- c. Home heating fuels, diesel fuel, motor oils, and/or gasoline.
- d. Any substances not included in Items 1, 2, or 3 of this definition, which, when properly submitted and reviewed as part of the site plan review process, are determined by the Board of Appeals to not pose a substantial present or potential hazard to human health or the environment due to proper treatment, storage, transportation, disposal, or other management practices related to otherwise permitted land use.

HAZARDOUS SUBSTANCE - Any substance, biological agent, and other disease-causing agent which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any person...will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunction, or physiological deformations in such persons or their offspring. This includes any substance listed by the U.S. Department of Transportation as hazardous materials under 49 CFR 172.101 and appendices.

HAZARDOUS WASTE – A waste or combination of wastes which, because of its quantity, concentration, toxicity, corrosiveness, mutagenicity or flammability, or its physical, chemical or infectious characteristics, may:

1. cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
2. pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

HEAVY INDUSTRIAL – Manufacture, assembly, treatment, packaging of goods, or other industrial activity that meets any one of the following criteria:

1. Use or purpose that is noxious or offensive by reason of the emission of odor, dust, smoke, toxic or noisome fumes, radiation, gas, noise, potential groundwater contamination, vibration or excessive light, high volume truck traffic, or any combination of the above which is dangerous or prejudicial to the public health, safety and general welfare, or which involves commonly recognized offensive conditions based on performance standards as determined by the Board of Appeals.
2. Generation of HIGH VOLUME TRUCK TRAFFIC as defined in this Law.
3. Generation of HIGH VOLUME HAZARDOUS MATERIAL HANDLING as defined in this Law.
4. Commercial incineration of waste.

HIGH VOLUME HAZARDOUS MATERIAL HANDLING -- transport to/from or the storage of hazardous materials as defined in this document at any single industrial, manufacturing, or construction project site, excluding agricultural or residential sites, that meets any of the following criteria:

1. Generation of more than one (1) truck trip per day for more than three (3) days in a week (any consecutive seven (7) day period). Trucks must have a gross weight of twenty (20) tons or more to be counted and must be handling material which is considered to be containing, in whole or in mixed solution, hazardous material. Temporary or permanent storage of any single hazardous material in excess of the reportable quantity (RQ) listed in the NY DEC Regulations Chapter 5 Part 597 List of Hazardous Substances or the EPA List of Lists (EPA Document 550-B), including all RQ limits defined by EPCRA and CERCLA regulations. Storage of any hazardous material in excess of the RQ limit noted in these documents shall be considered as high volume hazardous material handling.
2. Temporary or permanent storage of any radionuclides in excess of CERCLA reportable quantity (RQ) as defined in 40 CFR Part 302 and Table 302.4.
3. Temporary or permanent storage of any hazardous waste streams or unlisted hazardous wastes in excess of RCRA reportable quantity (RQ) as defined in 40 CFR Part 302 and Table 302.4.
4. Temporary or permanent storage of any three (3) or more hazardous materials, radionuclides, hazardous wastes or waste streams, regardless of quantity.

5. Temporary or permanent storage of any hazardous materials, radionuclides, hazardous wastes or waste streams, either whole or in mixed solution, in above ground or below ground storage pits or waste treatment lagoons.

HIGH VOLUME TRUCK TRAFFIC -- Truck traffic to/from any single industrial, manufacturing, or construction project site, excluding agricultural or residential sites, that consists of more than five (5) truck trips per 24 hour period for more than three (3) days in a week (any consecutive seven (7) day period). Trucks must have a gross weight of twenty (20) tons or more (truck and load combined) to be counted. This definition does not apply to contractor home base locations, emergency vehicle operations, snow removal, or municipal, county, and state road construction and road maintenance projects.

INSPECTOR - The duly designated person responsible for enforcing the existing New York State Uniform Fire Prevention and Building Code and all subsequently adopted New York State Fire and Building Codes which supersede the existing code and this Local Law.

JUNK -- 1) Any worn-out, cast-off, discarded, or neglected item or 2) material that has been collected or stored for salvage or conversion to another use. Building materials, as defined in this Law, stored in an orderly fashion shall not be constituted as junk unless occupying an outside surface area greater than four hundred (400) square feet and ten (10) feet in height.

JUNK VEHICLE -- Any motor vehicle whether automobile, bus, truck, tractor, motor home, motorcycle, moped, motorized bicycle, snowmobile, or any other device originally intended to have an operating motor and intended for travel and meets one or more of the following:

- 1) It is unlicensed/unregistered.
- 2) It is abandoned, wrecked, stored, discarded, dismantled, or partly dismantled.
- 3) It is not in condition for legal use upon the public highway.
- 4) It is in such condition as to cost more to repair and replace in operating condition than its reasonable market value at the time before such repair.
- 5) It has remained unused for three (3) months or more and cannot be removed under its own power.

JUNKYARD -- The use of more than four hundred (400) square feet of surface area on any property outside a building, used for or occupied by the storage, keeping or abandonment of junk. Regardless of area, the outside storage of two (2) or more junk vehicles or the major parts thereof for three (3) months or more in any one year shall be deemed to make the lot a "junkyard." Regardless of area, the outside storage of three (3) or more appliances, including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers, ice makers, and televisions shall be deemed to make the lot a "junkyard".

MINING, LARGE SCALE -- Operations extracting gravel, rock, mineral stone, sand, fill, topsoil or minerals from the surface or below the ground for sale as an industrial or commercial operation from which 1,000 tons or 750 cubic yards of material, whichever is less, are to be removed from the earth within 12 successive calendar months. This definition

does not include the processing or grading of a lot preparatory to the construction of a building or natural gas and/or petroleum extraction as defined elsewhere in this Law.

NATURAL GAS AND/OR PETROLEUM EXTRACTION – Industrial activity which includes the digging or drilling of a well for the purposes of exploring for, developing, or producing natural gas, petroleum, or other hydrocarbons. This includes the construction, use, or maintenance of a storage or staging yard, a water or fluid injection station, a water or fluid gathering station, a flowback pond(s), a natural gas or petroleum storage facility, or a natural gas or petroleum gathering line, venting station, or compressor associated with the exploration or extraction of natural gas, petroleum, or other hydrocarbons.

NON-PRINCIPAL STRUCTURE - Any building other than a principal or temporary structure. Examples of a “non-principal structure” may include, but are not limited to, a free standing garage for vehicles, a storage shed, a garden house or a similar facility.

PERSON - An individual, association, limited liability partnership, partnership, corporation or any other legal entity.

PRINCIPAL STRUCTURE - Any structure used for living quarters for the use of no more than three (3) household(s) and/or for one (1) commercial enterprise. Commercial enterprise shall include, but not be limited to, retail sales, office use, service providers (such as insurance agency, beauty parlor, garage), professional office (such as medical and dental), restaurant, wholesale operations warehousing and manufacturing, but shall exclude a multi-family structure containing separate living quarters for the use of four (4) or more households.

QUALIFYING ADDITION - Any addition or extension to an existing principal structure or non-principal structure, except for those additions or extensions which meet the criteria set forth in Section III (C).

SITE - A piece, parcel or plot of land separately described in a deed or on a survey map recorded in the Schoharie County Clerk’s Office.

TEMPORARY STRUCTURE - A camping trailer, other recreational vehicle or tent but excluding a mobile home/manufactured home.

Section XVII. SEVERABILITY

It is hereby declared to be the intent of the Town Board that:

A. If a court of competent jurisdiction finds any provisions of this Law invalid, in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid, and all other provisions of the Law shall continue to be separately and fully effective.

B. If a court of competent jurisdiction finds the application of any provision of this Law to any building, other structure or tract or land to be invalid, in whole or in part, the effect of such decisions shall be limited to the person, property or situation involved in the controversy, and the application of any such provision to any other person, property or situation shall not be affected.

Section XVIII. AMENDMENTS

Proceeding as prescribed by law, the Town Board may, from time to time, on its own motion or on petition, amend, supplement or change the regulations herein provided.

Section XIX. WHEN EFFECTIVE

This Local Law shall take effect upon its adoption and filing with Secretary of State.

Barbara VanValkenburg
Filed with State on 4/2/2013

Proposed Change to the Town OF SUMMIT LAND USE LAW

To be added at the end of Section VII:

D. Reconstruction, modifications, additions or alterations to Principal structures built on sites that are less than 217,800 square feet (five acres) but more than 108,900 square feet (two and one half acres) will not require Area Variances if all setbacks and road frontage requirements are met. All modifications, additions or alterations to Principal structures built on sites that are less than 108,900 square feet (two and one half acres) will require an Area Variance.

Adopted 11/21/2013